

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 1417 - SB 1621

January 30, 2014

SUMMARY OF BILL: Removes the ability of a lot owner or descendant or next of kin of a cemetery lot owner to petition the Davidson County chancery court for a cemetery receivership, providing that only the Commissioner of the Department of Commerce and Insurance (TDCI) may make such petition for receivership. Provides that if the sole ground of a receivership was a deficiency in the improvement care trust fund, and such deficiency is eliminated, the chancellor of the court would be required to terminate the suspension of the certificate of registration, compensate the owner, dissolve the receivership, and restore the management of the cemetery to its owner.

ESTIMATED FISCAL IMPACT:

NOT SIGNIFICANT

Assumptions:

- Cemetery receiverships are granted when a cemetery ownership has done any of the following:
 - Failed to maintain trust funds in the appropriate manner;
 - Failed to maintain adequate registration;
 - Failed to remain solvent;
 - Failed to submit its books, records, accounts, or affairs to examination by the Commissioner;
 - Failed to prevent reasonable cause to believe that there has been embezzlement, misappropriation, or other wrongful misapplication or use of trust funds or fraud affecting the ability of the cemetery to perform its obligations to perform improvement care or deliver merchandise or services;
 - Failed to file any appropriate report as required by law;
 - Failed to meet its contractual obligations when they become due;
 - Failed to prevent a deficiency in the improvement care trust fund of any cemetery or geographical site of a cemetery; or
 - Failed to operate within the current terms and conditions of an order of the Commissioner.
- The ability to petition for a cemetery receivership is currently limited to the Commissioner, a lot owner or descendant or next of kin of a cemetery low owner.

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Regardless of the petitioner, if such petition is granted, the cemetery in dispute would currently become the responsibility of TDCI.

- The ability to petition is limited to the Commissioner of TDCI by the provisions of the bill.
- This would not result in a significant fiscal impact to the Department or the Board of Funeral Directors and Embalmers/Burial Services.
- Pursuant to Tenn. Code Ann. § 9-4-5117, all regulatory boards are required to be self-supporting over a two-year period. The Board had a closing balance of \$484,954 in FY11-12, a deficit of \$98,294 in FY12-13, and a closing reserve balance of \$714,380 on June 30, 2013.

IMPACT TO COMMERCE:

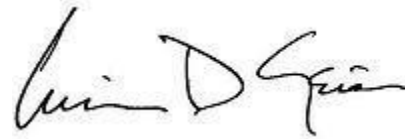
NOT SIGNIFICANT

Assumption:

- This will have no significant effect on the manner in which cemetery receiverships are handled; therefore, there will not be a significant impact to commerce or jobs in this state.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

/jdb